

S E A T T L E P O L I C E D E P A R T M E N T

*Office of  
Professional  
Accountability*



OPA Complaint Statistics  
2004/2005

Spring 2006

S A M P A I L C A  
D I R E C T O R

## **EXECUTIVE SUMMARY**

This report outlines information about citizen complaints received during calendar year 2004 and 2005. It has been prepared to summarize the data in a manner and format that will replicate previous reports.

Data included in this document has been previously reported in OPA Monthly Reports to the Mayor, which can be found at: <http://www.seattle.gov/mayor/issues/OPA.htm>.

The monthly reports reflect current data as the calendar year unfolds. A consolidated report prepared after the year's cases have been closed provides a more accurate and representative review and allows for identification and analysis of trends.

Included in this report are statistics on classification of complaints, a breakdown of the allegations made, and the disposition of complaints, including a discussion of discipline imposed. Also included is a review of changes in classifications by both the Director and the Chief of Police.

A companion report on OPA Policy Review and Outreach describes policy recommendations and community outreach by the OPA during the reporting period.

Finally, a separate report to be released July 2006 contains more detailed information about complaints received during the three-year period from 2003 – 2005 that allege unnecessary or excessive force.

This report was prepared with the assistance of OPA Associate Director John Fowler and Administrative Staff Assistant Joyce Law.

# OPA-IS Investigations

## Complaints Against SPD Employees 1999 -2005

Complaint Classification	1999	2000	2001	2002	2003	2004	2005
OPA-IS Investigations	145	183	191	158	149	163	174
Line Investigations	41	32	36	38	36	25	36
Supervisory Referrals	26	22	33	97	79	50	77
Total Complaints	212	237	260	293	264	238	287

The most serious allegations receive a full and formal investigation by the Investigation Section of the Office of Professional Accountability. An OPA-IS investigation is conducted in response to a citizen or internal complaint alleging serious misconduct, or the possibility of criminal activity. These investigations have been on the rise the past two years. In 2004, OPA-IS investigations jumped from 149 to 163. 2005 witnessed a similar rise, from 163 to 174.

## Number and Types of Allegations

in SPD Internal Investigation Cases, 1999 - 2005

Type of Allegation	1999	2000	2001	2002	2003	2004	2005
Unnecessary Force	61	94	108	80	167	144	165
Conduct Unbecoming an Officer	50	65	85	105	76	74	80
Violation of Rules and Regulations	36	21	71	82	33	43	104
Misuse of Authority	21	20	19	20	9	9	9
Improper Language	8	5	6	5	0	21	30
Failure to Take Appropriate Action	20	12	12	14	16	22	21
Violation of Law	15	12	15	8	16	18	14
Mishandling Property or Evidence	11	16	23	14	16	14	21
Racial Profiling	-	-	2	1	0	8	11
Other	20	35	15	0*	3	3	11
<b>TOTAL</b>	<b>242</b>	<b>280</b>	<b>356</b>	<b>329</b>	<b>336</b>	<b>356</b>	<b>466</b>

The 2004 and 2005 complaint statistics reveal an overall increase in both the number of investigated cases and the number of allegations within them. This has resulted in a substantially increased workload for OPA-IS during this same period, and a workload comprised of more complex investigations.

OPA-IS has struggled to meet deadlines imposed both by collective bargaining agreements and by the OPA ordinance governing review by the OPA Auditor, and to do so in a manner that maintains quality and thoroughness of investigation. Concerns about the increased workload and OPA-IS turnover and working conditions have been expressed to Chief Kerlikowske, and a revised staffing plan is currently under consideration.

In addition to the increase in the total number of cases, separate allegations investigated within each case have also been rising. Most notable are the jumps in allegations of unnecessary or excessive force, from 144 in 2004 to 165 in 2005, and the jump in allegations related to violation of rules, regulations, or law. This latter category saw a 30% increase from 2003 to 2004, and a substantial 142% again in 2005.

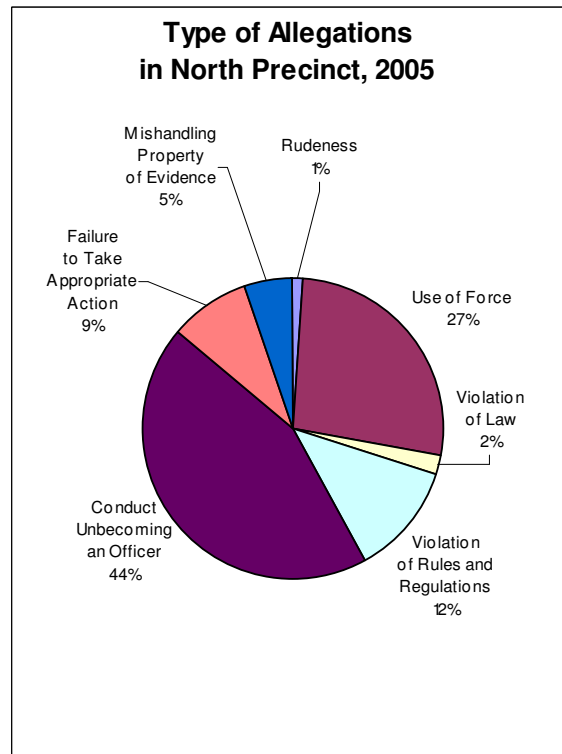
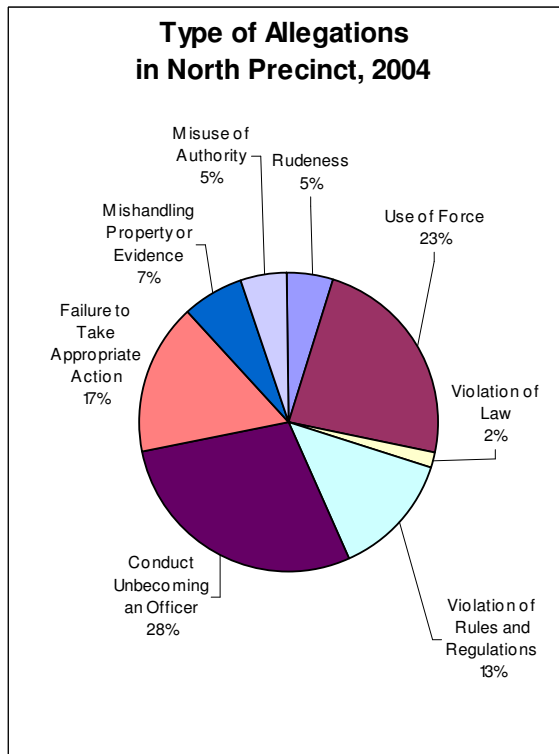
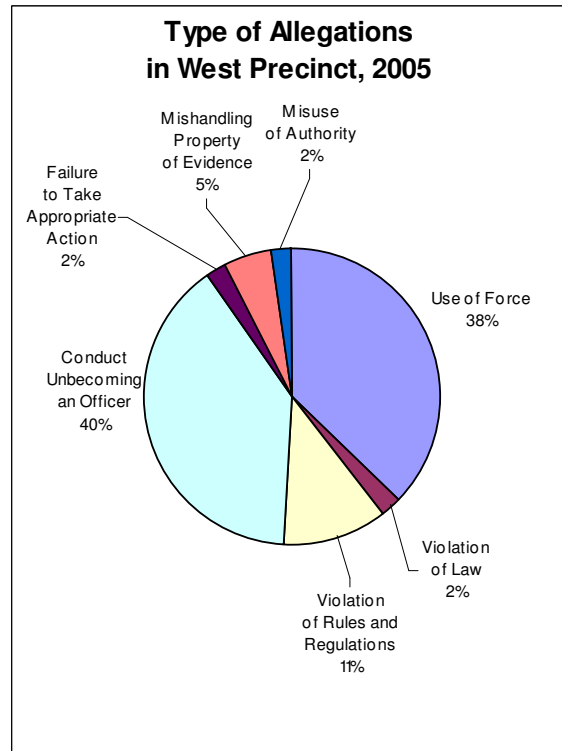
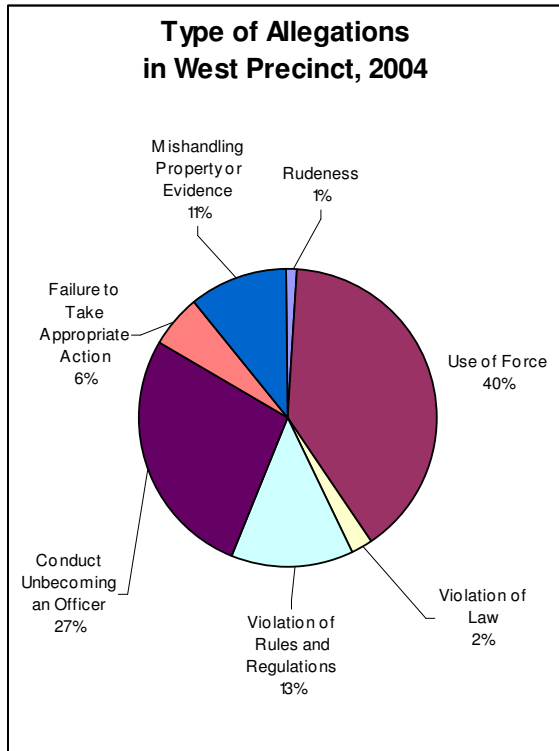
The increase in allegations of unnecessary or excessive force is analyzed in the upcoming report on Use of Force complaints. However, it should be noted here as well that the number of force complaints in 2004 and 2005 still make up a small proportion of reported force (79 out of 751 reported uses of force incidents department-wide for 2004, and 72 out of 742 reported uses of force for 2005). In addition, it bears repeating that use of force by officers at SPD remains relatively infrequent. It is estimated that in 2004 and 2005, SPD officers responded to an average of 251,481 dispatched calls, made an average of 168,764 on-view citizen stops or contacts, and arrested about 50,806 people in the two-year period. This translates to a use of force rate of just 0.157% for 2004 and 0.153% for 2005 relative to total public contacts.

When considering any increase in the number of allegations, it is important to note the distinction between *complaints* – or incidents – and the number of allegations within each complaint. For example, one individual may allege that on the night he was arrested, he was stopped because of his race, searched without his consent, restrained too forcibly, and that the watch he was wearing was not transferred with the rest of his property to the jail. This single incident may give rise to separate allegations for Biased Policing, Improper Search, Excessive Force, and Mishandling Property or Evidence.

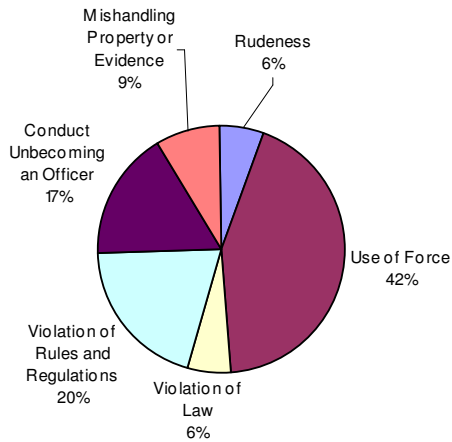
Similarly, complaints about courtesy and demeanor, or about force, are often lodged against all officers who had contact with the citizen during the incident. If three officers had physical contact with the complainant, separate allegations of unnecessary/excessive force are listed for all three.

The graphs that follow show the distribution of allegations within the Department's five precincts.

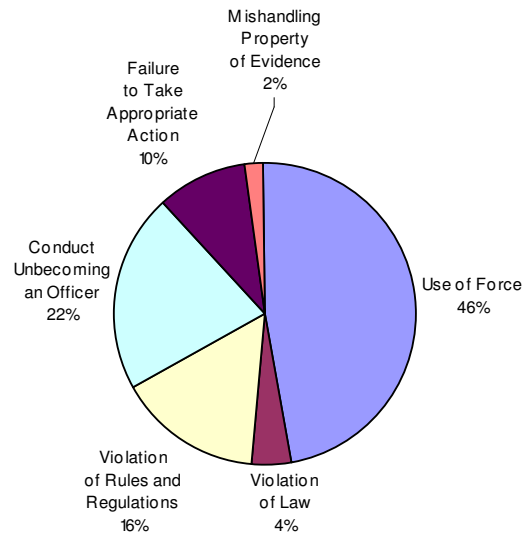
## 2004 & 2005 Allegations by Precincts



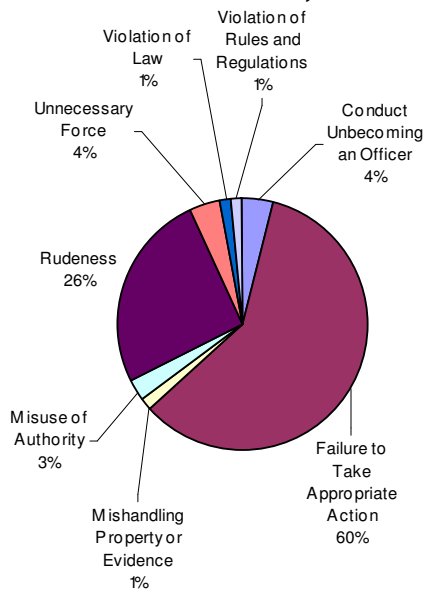
**Types of Allegations  
in South Precinct, 2004**



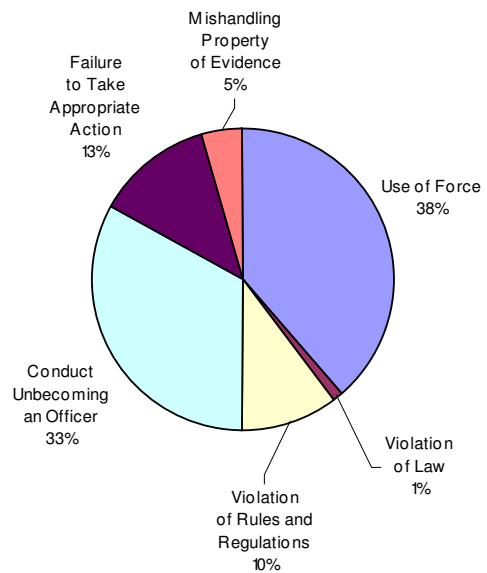
**Types of Allegations  
in South Precinct 2005**

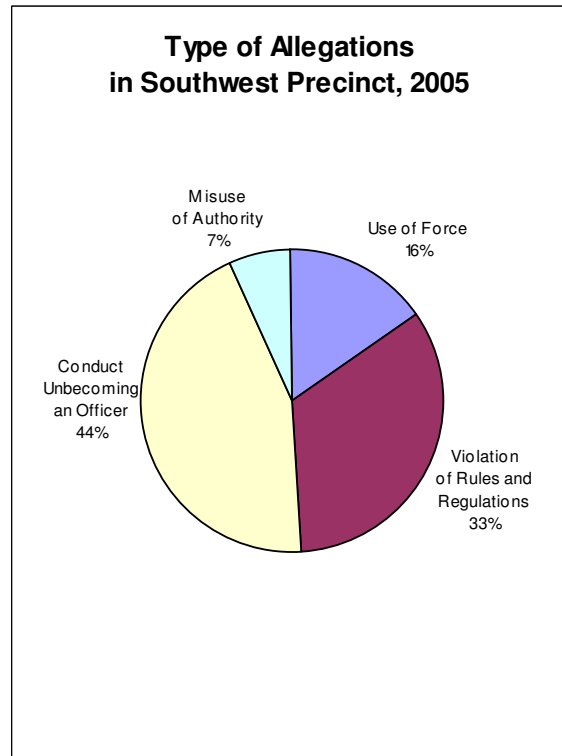
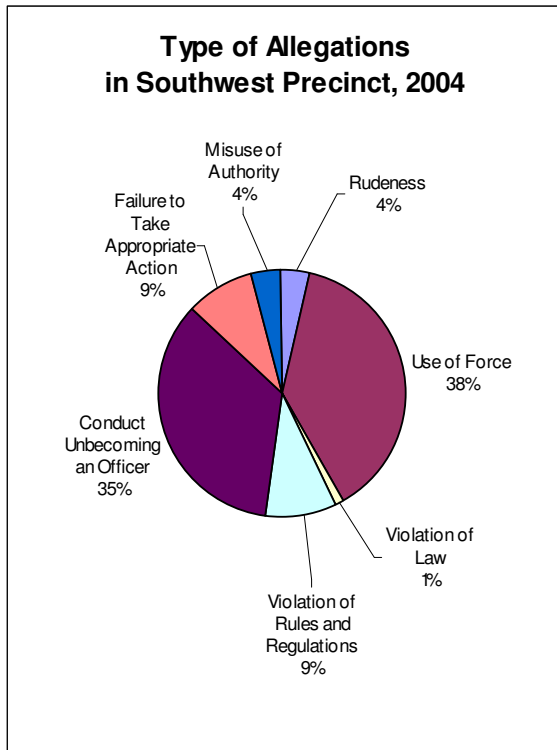


**Type of Allegations  
in East Precinct, 2004**



**Type of Allegations  
in East Precinct, 2005**





Overall, the distribution of allegations among the precincts was largely unremarkable. The proportionately higher percentage of force complaints reported for the South Precinct in 2003 abated over 2004 and 2005. A one-year rise in the proportion of force complaints in the East Precinct reported for 2004 reversed itself in 2005. There are a noticeably high percentage of Violation of Rules and Regulations allegations in the Southwest Precinct for 2005. However, the apparently skewed distribution is likely a simple function of the small raw number of complaints for Violation of Rules and Regulations for that smaller precinct (8 in 2004 and 15 for 2005).

## 2004-2005 OPA Complaint Statistics

### Complaints Against SPD Employees 1999 -2005

Complaint Classification	1999	2000	2001	2002	2003	2004	2005
OPA-IS Investigations	145	183	191	158	149	163	174
Line Investigations	41	32	36	38	36	25	36
Supervisory Referrals	26	22	33	97	79	50	77
Total Complaints	212	237	260	293	264	238	287

Overall, total complaints held relatively steady over the two-year period. After a dip in 2004, the number of Line Investigations and Supervisory Referrals returned in 2005 to 2003 levels.

The most significant change is the rise in full OPA-IS investigations. The 174 investigated in 2005 is the highest since the OPA was formed.

Identifying the cause of a rise in complaints is notoriously elusive. Careful review of the data, however, points to a few causes.

First, as discussed in this report and in the upcoming report on unnecessary force complaints, there has been an increase in the number of complaints of unnecessary or excessive force.

In addition, 2004/2005 numbers show an increase of investigations into non-discretionary investigations, most notably in the area of violations of law by police officers. Most of the law violation investigations have been for traffic offenses, such as driving while under the influence. While the numbers are small and it is too soon to show a clear trend, the Department has begun to step up its efforts to address alcohol awareness amongst its employees.

Finally, in a page from the glass-is-half-full book, it should be noted that the OPA has continued to expand its outreach to the community. Data shows that 86% of total OPA complaints came from sources external to the Department. A portion of the increase may thus reflect greater knowledge of, access to, and confidence in the citizen complaint investigation function by the OPA within SPD.



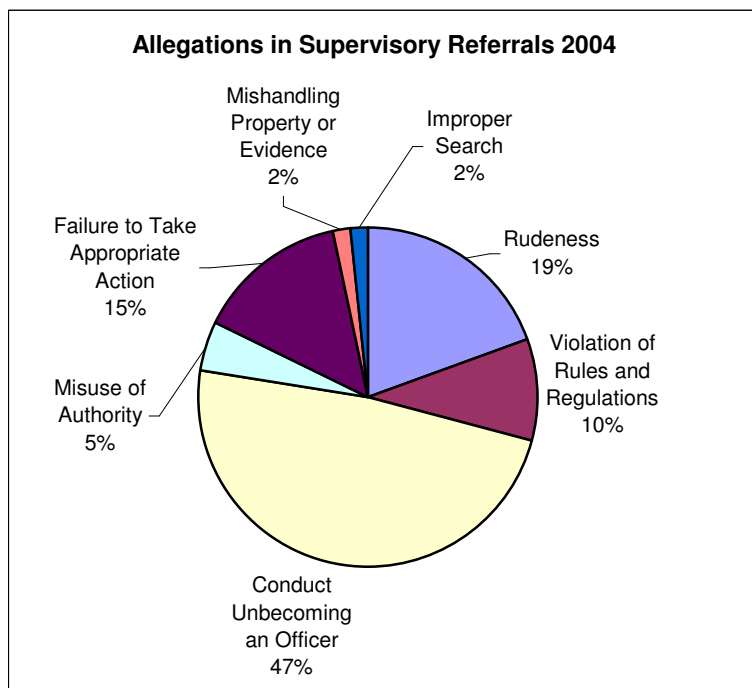
## Supervisory Referrals

A Supervisory Referral is a citizen or internal complaint of minor misconduct, e.g., service quality, tactics, demeanor, or adherence to policy that, if proven, would be appropriate for supervisory resolution. These complaints are forwarded to the affected employee's chain of command for review and resolution with the complainant and the employee. Supervisory Referrals do not result in discipline, nor are they subject to the investigation-review-findings process of Line or OPA Internal Investigations.

**Number and Types of Allegations  
in Cases Assigned for Resolution by Supervisory Referral**

Type of Allegation	2003	2004	2005
Rudeness	25	12	10
Violation of Rules and Regulations	9	6	20
Conduct Unbecoming an Officer	31	27	47
Misuse of Authority	6	3	1
Failure to Take Appropriate Action	14	9	14
Unnecessary Force	2	0	0
Mishandling Property or Evidence	3	1	0
Other	10	1	9
<b>TOTAL</b>	<b>100</b>	<b>59</b>	<b>101</b>

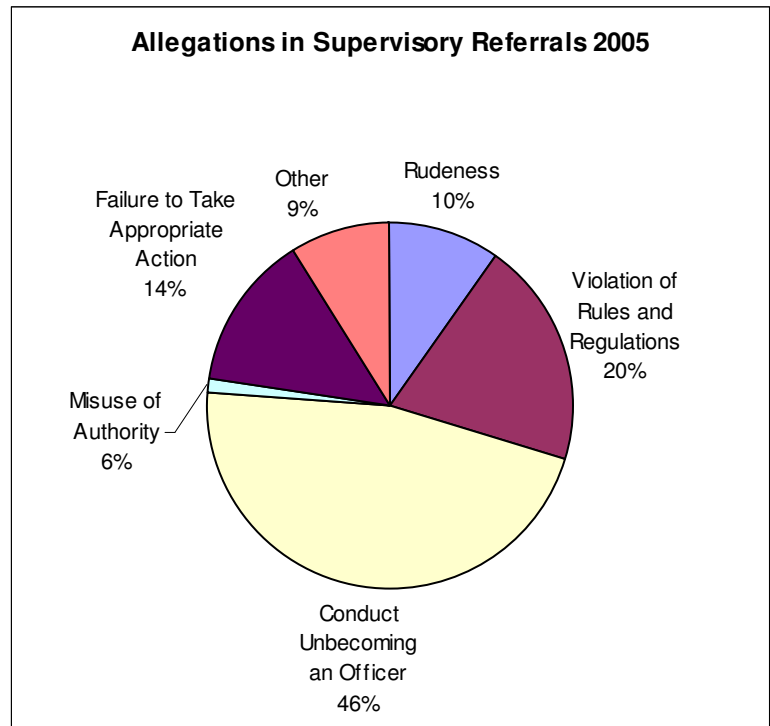
As previously reported, there are multiple benefits to supervisory review of minor complaints.



First, an SR can be resolved much more quickly. After the initial classification, the supervisor can immediately contact the complainant and speak directly with the officer. The situation can be discussed, problem-solved, and closed within just a few weeks.

Second, complaints from citizens can illuminate underlying community concerns or tensions. Direct involvement in resolving constituent problems improves the quality of service and builds relationships and trust in the community.

Finally, input and feedback from a supervisor has a greater impact because it is more personal. The officer and the supervisor have an ongoing relationship, and the officer knows the supervisor understands the situations confronting the officer on the street. Through the resolution of a citizen complaint, a supervisor is able to send strong messages about standards and expectations of conduct and service, serve as a mentor and supporter of his or her officers, and keep watch for behaviors or attitudes that may signal trouble ahead. Through this ownership and sphere of influence, a true culture of accountability can be fostered and reinforced.



OPA reviews and approves closure of all Supervisory Referrals handled by the chain of command. The closing letters to the complainants sent by the precinct commanders have almost uniformly been responsive, informative, and emphasized the importance of professionalism and communication – both during and after an incident. OPA rarely receives complaints from citizens whose concerns were resolved via Supervisory Referral.

Though the numbers of supervisory referrals have remained high, it is hoped that over time, direct intervention by the chain of command, as well as the complaint avoidance emphasis described below, will pay off in the form of a reduction in courtesy and professionalism complaints.

Overall, the data and results achieved encourage OPA to continue its emphasis on resolution of minor complaints through Supervisory Referrals.

## **Department Response to Complaints Alleging Lack of Courtesy and Professionalism**

Rudeness is a subset of the broader category of Conduct Unbecoming an Officer and is used when the specific allegations is that of rude remarks or demeanor. Conduct Unbecoming an Officer is generally used where the allegations cover a pattern of conduct, which may include specific allegations of profanity, tone or volume of voice, or inappropriate remarks, or other alleged shortcomings in attitude, conduct and demeanor.

As evident from the distribution of allegations, it is clear that the majority of Supervisor Referrals are for resolution of complaints involving concerns about courtesy and professionalism. The Department has taken steps to promote courteous conduct by officers.

First, the Training Section has instituted changes to the curriculum of the mandatory training for all officers, called Street Skills. Additional training and coaching is being offered in the areas of de-escalation, dealing with onlookers observing police activity, and in the response to concerns raised in the street about police bias. A portion of the Sergeant's Academy, the mandatory training for sergeants, has also been newly devoted to the topic of promoting courtesy and professionalism.

Second, OPA and the Training Section have each stepped up efforts to coach officers on how to avoid complaints. OPA has begun presenting on this topic to each new class of graduating police recruits, speaking to 10 classes in 2005 alone. OPA has also presented information on complaint avoidance to all Captains and Lieutenants within the Department. To reinforce the courtesy and professionalism message with all officers, the Training Section is producing, in conjunction with OPA, a roll call video on complaint avoidance.

Third, new Department programs and policies should assist with delivery and reinforcement of the message. A revamped Standards of Conduct policy contains several new provisions emphasizing courtesy and demeanor. Annual performance evaluations provide an opportunity to receive one-on-one feedback from supervisors on this important aspect of performance. OPA's new Mediation Program affords a unique opportunity to hear directly from a citizen how officer conduct impacted them. Finally, the implementation of the Early Intervention System will ensure better tracking of courtesy complaints, and should serve as an incentive for officers to minimize complaints.

# Investigated Complaints

## Complaints Against SPD Employees 1999 -2005

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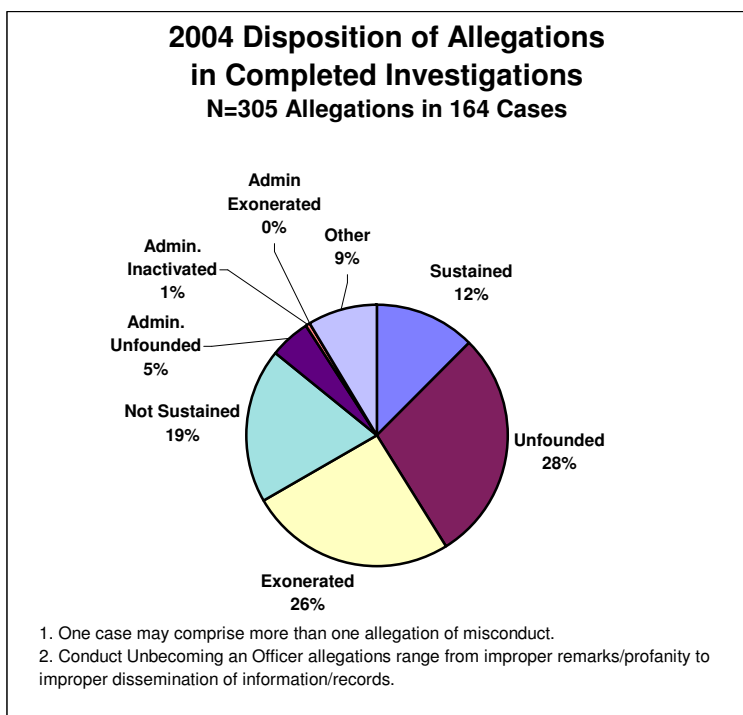
### Line Investigations

Line Investigations are conducted by the named employee's precinct or section commander (or civilian equivalent) when the alleged misconduct, if true, would be a violation of the Department's policies, but the investigation is simple and may be handled objectively by the line.

Line Investigations dipped somewhat in 2004, from 36 to 25, but returned to 2003 levels in 2005, back to 36. The most frequently investigated allegations in Line Investigations were Conduct Unbecoming an Officer, followed by Violation of Rules and Regulations.

In 2004, OPA reported a problem with the quality and timeliness of line investigations. Upon detection of the problem, OPA implemented an action plan. The highlights of the reforms included a letter from the chief to all captains outlining the Chief's expectations that line investigations be thorough, professional, objective, accurate, and timely, and the institution of bi-weekly reporting to the Chief on the status of all line investigations. The message was received: the backlog was cleared and the investigations by the line are being completed on time. The quality has also improved noticeably.

# Disposition of Allegations

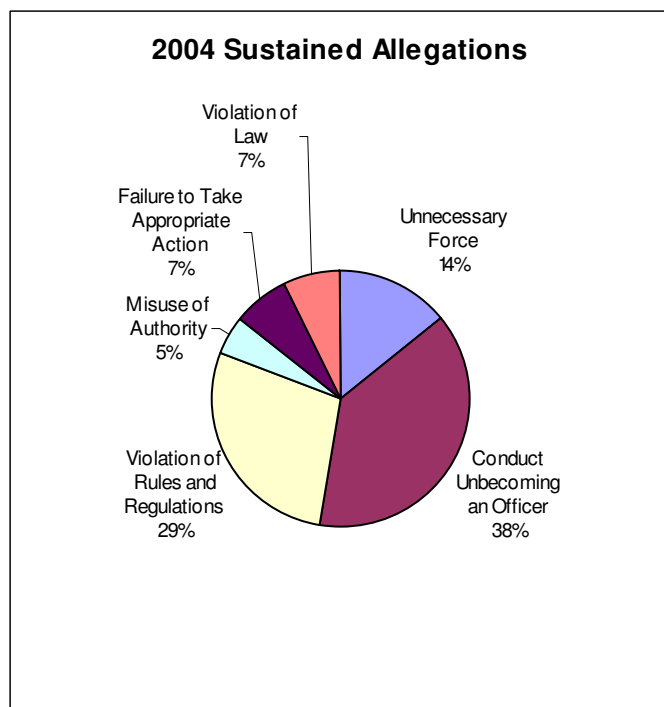


Represents 2004 cases closed through December 2005

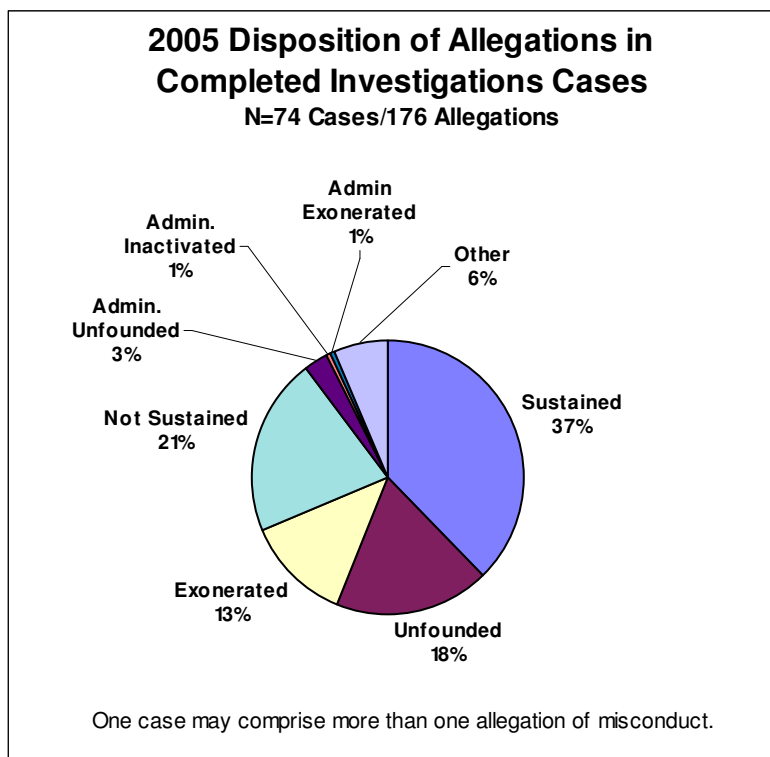
The chart represents the year-end close out of findings for allegations received in 2004 and investigated by OPA during CY 2004 and 2005.

Complaints may include multiple allegations; the statistics at left represent allegations and not complaints. The percentage of investigative cases with sustained findings is 18%.

The 38 sustained allegations were made in the 34 - 2004 cases that included a sustained finding as all or part of the final resolution. The chart at right shows the distribution of sustained findings among allegation types.



This chart represents a mid-year review (April 2006) of findings for allegations received

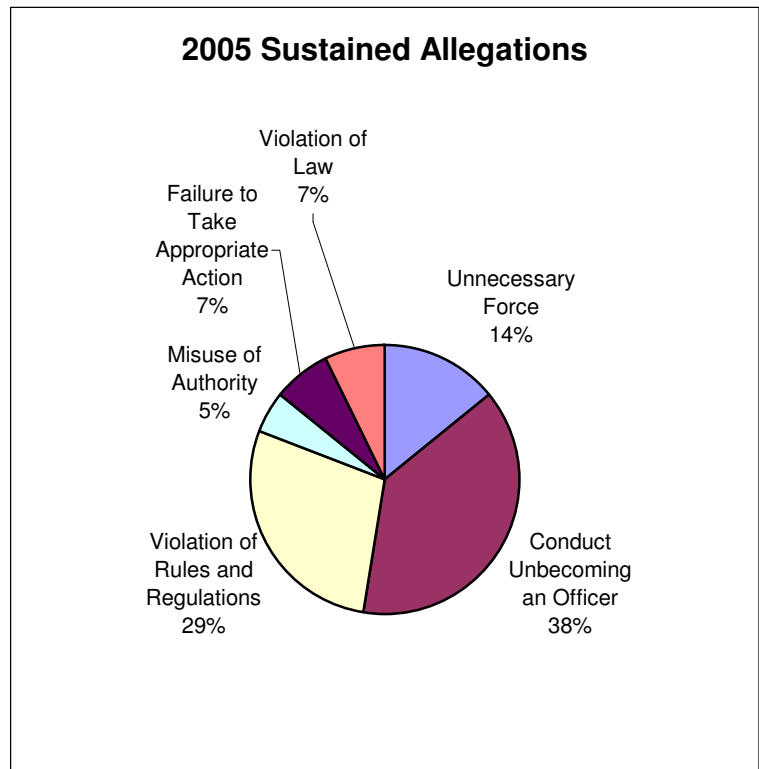


Represents 2005 cases closed through April 2006

and investigated by OPA during CY 2005. Note: 36% of 2005 cases remain open as of the date of this report; closure of these remaining cases will result in a change to the final disposition of allegations. Since cases with sustained findings are prioritized for review and closure, closure of the open cases will likely LOWER the percentage of sustained allegations for 2005. At this point, 29% of investigated cases were closed with at least one sustained finding. This number is also likely to decrease in the final closeout of 2005 cases.

## THE SUSTAINED RATE

To date, 89 allegations have been sustained in 40 – 2005 cases that included a sustained finding as all or part of the final resolution.



OPA has reported repeatedly on the limited utility of the sustained rate as a measure of accountability. In his most recent book, noted police accountability expert Samuel Walker emphasizes:

*The sustain rate, or the percentage of complaints resolved in the complainants' favor, has traditionally been used by community groups as a performance measure for police internal affairs units. And they have cited [sic] fact that only about 10% of all complaints are sustained as evidence that the police do not conduct thorough or fair investigations. The sustain rate, however, is not an appropriate performance measure. Complaints against officers are inherently difficult to sustain, usually because there are no witnesses or forensic evidence. And in fact, citizen oversight agencies do not sustain significantly higher rates of complaints than police internal affairs units. For these and other reasons, the sustain rate is not a valid measure of the effectiveness of a complaint review process.<sup>4</sup>*

Again, while a vigilant and rigorous investigative arm is critical, OPA continues to emphasize a diversified approach to complaint reduction. First, and most importantly, OPA continues to work in conjunction with other Department sections and policies to enhance performance and accountability through effective policy, supervision, training,

<sup>4</sup> The New World of Police Accountability, 2005, Sage Publications, p.99.

and performance evaluation. This is most mostly accomplished through OPA's policy review role, discussed in more detail at in the companion report on OPA Policy Review and Community Outreach. In addition, a comprehensive discussion of this critical oversight function can be found at

<http://www.seattle.gov/police/opa/Docs/2004PolicyRecommendations.pdf>, the OPA's Role in Policy Review and Risk Management at SPD report.

OPA is pleased that two other important tools in the complaint reduction toolbox became operable during this reporting period. The OPA Mediation program was implemented in August 2005. The Mediation program is aimed at resolving citizen complaints outside of the traditional investigation and discipline model. Not only is the experience much more satisfying for citizens and officers alike, there is reason to believe that an officer who has mediated a complaint will receive fewer complaints in the future.

In addition, the Department's new Early Intervention System began its pilot year of operation January 2006. This more progressive, comprehensive system is designed to help identify potential problems and to support the officer, correcting any problems before they result in sustained complaints and discipline.



## **A CLOSER LOOK AT SUSTAINED CASES AND DISCIPLINE**

While focus on the sustained rate is of little value, a closer look at the sustained cases themselves can yield valuable information for a department. Review is especially important where, as here, incidents of misconduct have risen (34 and 40 incidents in 2004 and 2005, respectively, compared to 22 in 2003). The point is not simply a voyeuristic look at the types of misconduct officers are found to have engaged in, but to look for possible causes in an effort to prevent reoccurrences.

### **2004 Sustained Cases**

Examination of the 2004 sustained cases reveals that just 12 of the 34 cases with a sustained allegation presented as a traditional police/citizen encounter. Of these twelve, six were sustained because it was determined that the officer did not take the appropriate action under the circumstances, i.e., failure to take a domestic violence report, follow proper call procedure, document an assault, follow proper arrest/detention procedures, safeguard personal property. Four were simple rudeness complaints. Two complaints were sustained for unnecessary or excessive force. Another was sustained when the employee entered into a personal relationship with a woman he met when responding to an assault call.

Of the remaining 22 cases with a sustained allegation, twelve were sustained for off-duty conduct. Three were arrests for driving while under the influence; two involved arrests for other crimes, i.e., domestic violence and patronizing a prostitute; two involved "road rage" incidents; and three involved fighting. Other off-duty conduct resulting in a sustained allegation included unpaid parking tickets and the use of pepper spray on a dog.

In two cases, the employees were on-duty at the time of the violation, but not interacting with a citizen. In one, an employee was disciplined for conduct unbecoming an officer when he engaged in a public embrace with his girlfriend in the parking lot of an adult entertainment nightclub; in another, the employee was found to have failed to respond to a court subpoena and to have misled the prosecuting attorney as to his availability.

Several of the remaining eight cases involved violation of internal workplace rules. Examples include accessing inappropriate web sites, time and attendance violations, violations of policies regulating off-duty employment, and purchasing a gun from a citizen.

## **2005 Sustained Cases**

Forty 2005 cases have been closed through April 2006 with at least one sustained finding. It remained the case that, as in 2004, a high percentage of the closed cases involved off-duty conduct by officers. The fourteen cases involving off-duty conduct included: intervention by a separated employee in a police action; a display of weapon by a student officer; drug use; conduct with a personal acquaintance the employee had met while on duty; four arrests for driving while under the influence; an incident with airport security; another road rage case; and two unreported and/or late reported accidental weapon discharge cases.

As in 2004, there were also a number of violations of internal workplace rules in 2005. These included inappropriate comments made to subordinate officers; an improper report that may have revealed the identity of a confidential informant; violation of regulations regarding leaving the area of assignment and unauthorized citizen riders; providing a copy of a police report directly to a friend; receipt of food and beverages for personal use; and violation of workplace regulations regarding off-duty employment.

There were four incidents involving use of force in which policies were violated. In two cases, force triggering mandatory reporting was found, yet no reports of use of force were made. In another, actions by two employees in using fingers to remove marijuana from the subject's mouth and in putting a gun to his head were found excessive. Finally, an officer who shot at a woman who had stolen his patrol car and was leaving the scene was found to violate the Department's policy on shooting at motor vehicles.

More complaints arising out of traditional police/citizen interactions were sustained in 2005 than in 2004. In fifteen cases (three involving one dispatcher), allegations were sustained for allegations including unprofessional comments and rudeness, improper entries, seizures and searches, failure to collect evidence, and failure to safeguard personal property of a prisoner.

## **Identification of Trends in Sustained Cases**

The examination reveals that a significant percentage of incidents of misconduct in both years involve clear law or policy violations, allowing little room for discretion in analysis and/or imposition of discipline. Rather than being scrutinized and second-guessed for law enforcement actions in the field, officers are increasingly the architects of their own misfortunes.

In 2004-2005, alcohol use by the employee was a factor in at least ten incidents of misconduct. While small in number, the trend is of concern. Chief Kerlikowske responded by creating a Peer Support position, whose responsibilities include addressing alcohol abuse by employees. The Department is also in the process of developing an alcohol awareness and education program targeted for officers.

OPA-IS also identified a growing issue with the safeguarding of personal property of prisoners. When OPA-IS raised this as a concern, one precinct experiencing most of the complaints promptly adopted new procedures. The Department's Audit & Inspections Section is also researching and developing Department-wide procedures aimed at strengthening policies and accountability in this area.

Recurrent complaints over Failure to Take Appropriate Action spurred action as well. An SPD manual provision was revised to emphasize that reports should be taken in certain circumstances, especially when at the request of a citizen. OPA presentations to new recruits and to Operations commanders have emphasized the importance of writing incident reports or taking enforcement action when required.

Though complaints of improper entry, search, and seizure had – until 2005 - resulted in few sustained complaints, these allegations have been on the rise for some time. Both the OPA Auditor and OPA Director urged additional training on these subjects. The revamped 2006 Street Skills and Sergeant's Academy training programs incorporate new sections on search and seizure, and all Department ACT (anti-crime) teams are receiving specialized training in this area.

Finally, OPA has been raising the need for vigilance in use of force reporting. All Department commanders were reminded of the need to ensure consistent reporting thresholds, and to make Department expectations known. Not all cases of physical contact between an officer and citizen need to be reported, but decision-making should be conservative, and supervisors should always err on the side of completing a use of force packet whenever resistance was overcome, or the force *could* have resulted in injury or complaint of injury.

# Discipline

As set forth above in the discussion of sustained cases, more employees were disciplined in 2004 and 2005. Approximately 60 employees were disciplined between January 2005 and 15 May 2006. The following table provides information on the type of discipline imposed.

SMC 3.28.810(G) charges the OPA with providing analysis to the Chief of Police regarding disciplinary action in order to promote consistency of discipline. The OPA continues to work with the Department's Human Resources Department to improve records kept of past discipline to aid in the consideration of appropriate discipline. Currently, Human Resources maintains a database of all discipline imposed on sworn employees and for what allegation.

**SPD Sworn Employees Disciplined**  
September 2003 through December 2004

Type of Disciplinary Action	Number of Times Discipline Imposed
Termination	3
Demotion	0
Suspension	10
Written Reprimand	11
Oral Reprimand	0
Transfer	2
<b>TOTAL</b>	<b>26</b>

- N = 25 employees (21 Sworn, 4 Civilians)  
 \*Number of employees and complaints differ due to multiple instances of discipline  
 • 5 cases included in these totals are under appeal  
 • An additional employee retired from the Department before discipline could be imposed.

**SPD Sworn Employees Disciplined**  
1 January 2005 through 15 May 2006

Type of Disciplinary Action	Number of Times Discipline Imposed
Termination	1
Demotion	0
Suspension	30
Written Reprimand	18
Oral Reprimand	1
Transfer	4
Other	11
<b>TOTAL</b>	<b>65</b>

- N = 60 employees (48 Sworn, 12 Civilians)  
 \*Number of employees and complaints differ due to multiple instances of discipline

Notes:

- Discipline held in abeyance based on employee retiring: 1 sworn
- Employee resigned before completion of investigation: 2 sworn, 1 civilian
- Resigned in lieu of termination: 4 civilians

Appeals:

- Length of suspension reduced by Public Safety Civil Service Commission: 1 sworn
- Suspension reversed by Public Safety Civil Service: 1 sworn
- Suspension reversed by Disciplinary Review Board: 1 sworn

While authorized to make recommendations about a reasonable range of discipline for a given violation, the OPA's primary concern is that serious violations are treated as such, and that appropriate remedial action is taken in the majority of cases that involved minor misconduct. These are broad principles that advance accountability.

# Officers with Multiple Complaints

## Number of Officers with Single and Multiple Complaints \*

Officer Complaint Category	Number of Officers in 2001	Number of Officers in 2002	Number of Officers in 2003	Number of Officers in 2004	Number of Officers in 2005
Officers with one complaint	188	146	101	127	136
Officers with two complaints	39	27	22	32	40
Officers with three or more complaints	16	9	8	11	17
<b>Total complaints</b>	<b>243</b>	<b>182</b>	<b>131</b>	<b>170</b>	<b>193</b>

Seattle Police Department, 2001-2005 \*Complaints may name more than one officer (LI/IIS cases only)

Using Strength Average @ 1250 officers

2004

- 86.4% of officers had no complaints
- 10.1% had 1 complaint
- 2.6% had 2 complaints
- 0.9% had 3 or more complaints

2005

- 84.6% of officers had no complaints
- 10.8% had 1 complaint
- 3.2% had 2 complaints
- 1.4% had 3 or more complaints

## Number of Officers with Single and Multiple Use of Force Complaints \*

Officer Complaint Category	Number of Officers in 2001	Number of Officers in 2002	Number of Officers in 2003	Number of Officers in 2004	Number of Officers in 2005
Officers with one use of force complaint	91	83	79	76	73
Officers with two use of force complaints	18	11	14	16	30
Officers with three or more use of force complaints	7	1	3	9	7
<b>Total complaints</b>	<b>116</b>	<b>95</b>	<b>96</b>	<b>101</b>	<b>110</b>

Seattle Police Department, 2001-2005 \*Complaints may name more than one officer (LI/IIS cases only)

The number of officers with multiple complaints rose in 2004 and again in 2005. The percentage of officers with multiple complaints remains relatively low, at 3.6% with 2 or more complaints in 2004, and 4.6% in 2005.

Still, those numbers reflect significant investment of investigative resources, as officers with multiple complaints made up 42% of all officers investigated in 2005. More importantly, if unchecked, the issue of officers with multiple complaints can erode goodwill and public confidence in the Department.

Fortunately, OPA and the Department have strengthened programs aimed at officers with multiple complaints. For several years OPA worked at re-invigorating the Department's administrative review system. Training was provided, new forms created, an early alert system was implemented, timing was improved, and greater review and oversight of the reviews was adopted.

New for 2006, the Department has moved ahead of the old administrative review system and adopted a more comprehensive and progressive Early Intervention System. Number of complaints and/or a variety of other criteria will trigger formal review of officer, providing more opportunities to catch possible problems. Over time, if the criteria, review, and interventions prove effective, the Early Intervention program should result in a reduction of officers with multiple complaints.

Though operated by the Department's Human Resources Section, the operation, functioning, and effectiveness of the new Early Intervention System is an appropriate subject of future OPA reports.

## **OPA Classification and Disposition Activity**

A primary reason for the creation of the OPA Director position was to ensure that a person who was not a trained, sworn police officer would be included in the review of investigations of citizen complaints of police misconduct. The legislation called for a civilian with substantial legal and/or investigative experience who could look at situations and evidence with a different set of eyes. And, for the first time, the review was to be in real time, not after the fact, so that it could make a difference in the outcome of actual cases. But the responsibility to review complaints and recommend findings and discipline wisely does not rest with the OPA Director alone. Instead, other commanders in the Department share the responsibility. Per ordinance, however, only the Chief of Police may sustain a case and impose discipline. Because the process used to evaluate and make findings on cases is widely misunderstood, the process is set forth again here in its entirety.

## Department Process for Evaluation of Cases

The process outlined at right ensures the rigorous and multi-dimensional review critical to both fairness and accountability. The classification and disposition activity of the OPA, noted in more detail below, is evidence that the OPA within the Department is not a system of perfunctory review and rubberstamping. Rather, the data reflects the energetic review, debate, and tough decision-making that are intentional features of the process. That there is frequent disagreement between the OPA Director and the sworn chain of command is not a discredit to the Department, nor evidence of a wide disconnect.

On the contrary, the data is testament to a system that is working as it was intended. Moreover, public reports such as these ensure in turn that the process itself is subject to scrutiny.

When OPA-IS investigators have completed the fact-finding portion of the investigation, the complete investigative file is provided to the OPA-IS lieutenant. The lieutenant reviews the case for thoroughness and objectivity, and may either return it to the investigator for additional investigation, or forward it the OPA-IS captain. When the investigation is deemed complete, an unredacted summary of the file is sent to the OPA Auditor. The Auditor may request additional investigation.

The OPA-IS captain reviews the entire case and analyzes the evidence. The captain prepares a memorandum stating his or her recommendation for finding, along with supporting evidence and analysis. The OPA-IS Recommended Disposition is forwarded to the named employee's chain of command and the OPA Director. If the OPA-IS captain recommended a "sustained" finding, a copy of the complete file is also sent to the Department's Human Resources Legal Advisor and to the Chief of Police. The OPA Director makes the final determination of findings other than sustained. If either the chain of command or the OPA Director continues to recommend a sustained finding, a meeting to discuss the case is scheduled. Present at the meeting are the Chief of Police, the bureau chief and captain of the named employee, the OPA Director, OPA-IS Captain, and the legal advisor. The attendees each present their view of the evidence and the appropriate finding. The bureau chief and captain will also share the opinion of the named employee's supervisor about the case. If a sustained finding is still contemplated, the next step is for each attendee to share their opinion about the range of appropriate discipline. The SMC 3.28.810 charges the OPA with providing analysis to the Chief of Police to promote consistency in discipline. One of the key considerations in determining appropriate and consistent discipline is the level of discipline imposed in the past for similar offenses. The Department's Human Resources Department maintains records of past discipline to permit comparison and application to current cases.

As set forth in the OPA ordinance, SMC 3.28.700 et seq., the Chief of Police retains authority to impose the final finding and discipline. Chief Kerlikowske sometimes announces his proposed finding and discipline at the conclusion of the meeting; at other times he will take additional time to review and consider his decision. In all cases where the Chief proposes discipline, the employee and his or her union representative is notified in writing of the finding and the proposed discipline.

Federal and state law requires that public employees be given notice and an opportunity to be heard by the hiring authority before discipline may be imposed. To comply with this requirement, a meeting is arranged between the Chief, the named employee, and the employee's representative prior to the imposition of discipline. This meeting is known as a Loudermill hearing, from the name of the United States Supreme Court decision establishing this due process protection. At the meeting, the employee and his or her representative may present their position as to why the finding and/or discipline ought to be changed. Following the Loudermill hearing, the Chief issues the final determination of finding and discipline.



## Changes to OPA Sustained Recommendations

### 2004 Cases

In 2004, Chief Kerlikowske declined to accept an OPA sustained recommendation on seven allegations in six cases. In one of the six cases, a sustained recommendation on another allegation stood; in another, the Chief opted for a finding of Supervisory Intervention, rather than sustained.

The six cases are described below:

- An allegation was investigated that two officers used excessive force during the arrest of a subject for a narcotics violation. The subject ran from plainclothes officers and was tackled. The complainant/witness and the subject reported that the named employees struck the subject in the head with their fists. The named employees denied striking the subject at anytime. The subject did not have any injuries to the face or head.

Chief entered finding of “not-sustained” on allegation of unnecessary force.

- An allegation was investigated that an officer had committed Conduct Unbecoming an Officer by failing to cooperate with another law enforcement agency that was investigating a threatening telephone message.

Chief entered finding of “not-sustained” on allegation of Conduct Unbecoming an Officer.

- An allegation was investigated that an off-duty officer got into a fight in a bar, used profanity, and failed to report the incident to a supervisor.

Chief entered finding of “Supervisory Intervention” on the allegation of Conduct Unbecoming an Officer.

- Allegations that an officer had violated Department rules by working at a prohibited event and giving false or misleading statements during an internal investigation.

Chief upheld sustained recommendation for rule violation; Chief entered finding of “not-sustained” for the allegation of False or Misleading Statements.

- Allegations were investigated that, during the arrest of a subject, one officer had used excessive force and another had committed Conduct Unbecoming an Officer by allowing impatience about the subject’s ability to communicate effectively influence his decision to arrest.

Chief entered finding of “exonerated” on allegation of unnecessary force, and finding of “not-sustained” on allegation of Conduct Unbecoming an Officer.

- An allegation was investigated that an officer used unnecessary force on a restrained subject when he struck the subject in the mouth for attempting to spit at him.

Chief entered finding of “exonerated” on allegation of unnecessary force.

## **2005 Cases to Date**

In 2005, Chief Kerlikowske declined to accept an OPA sustained recommendation on ten allegations in six cases. In five of the allegations, the Chief chose to enter a finding of “Supervisory Intervention \*\*,” rather than sustained.

The six cases are described below.

- An allegation was investigated that several officers entered a motel unit without justification, used excessive force, and failed to report the use of force.

Chief entered finding of “Supervisory Intervention\*\*” on allegations of Improper Search and Failure to Report Use of Force.

- It was alleged that an officer, while off-duty and in another jurisdiction, attempted to use her status and authority as a police officer to influence a civil dispute involving a friend.

Chief entered finding of “not-sustained” on allegation of Conduct Unbecoming an Officer.

- An allegation was investigated that an officer used excessive force during a contact with two men for drinking in public when he swatted a beer can the subject was drinking into his mouth.

Chief entered finding of “Supervisory Intervention” on allegation of Unnecessary Force.

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\*\* Since 2003, OPA has used an additional finding category called Supervisory Intervention. Supervisory Intervention may be found where a policy violation may have occurred, or where best practices or tactics were not employed, but the employee acted in good faith and was candid about his or her actions. Typically the finding is used where the policy violation was not willful, and discipline is not considered necessary for corrective action.

Because they typically involve violations of policy, the complaints that received a finding of Supervisory Intervention were included in the discussion on sustained cases. The percentage of Supervisory Intervention findings are also reported in the OPA monthly reports.

- It was alleged that one officer used excessive force and another committed Conduct Unbecoming an Officer when, in a contact for a trespass and marijuana violation, one officer inserted his fingers into the subject's mouth and the other officer pointed his duty weapon near the subject's head.

Chief entered findings of "Supervisory Intervention" on allegations of Unnecessary Force and Conduct Unbecoming an Officer.

- An allegation was investigated that two officers detained a subject without cause or explanation, roughly patted him down, made disparaging comments, and threw his possessions into the street.

Chief entered findings of "not-sustained" on allegations of Conduct Unbecoming an Officer for both officers.

- Allegations were investigated that a sergeant had committed biased policing and failed to take appropriate supervisory action, and that several officers had used unnecessary force in the arrest of a subject for obstructing a police officer.

Chief upheld sustained finding for supervisor's failure to take appropriate action; entered findings of "exonerated" for two officers on allegations of unnecessary force.

# Preliminary Investigations

OPA processed 242 Preliminary Investigation Reports in 2004 and 315 in 2005, a 30% increase. This upward trend is consistent with the overall increase in OPA complaint activity in 2005.

## Allegations within PIRs

PIRs are categorized into 19 different subject matter headings. A summary of that information is below.

#	Description	2004		2005	
		Count	Percent	Count	Percent
1	Service Quality	71	20%	87	19%
2	Possible Mental Issues	38	11%	28	6%
3	Disputes Report/Citation	52	15%	78	17%
4	Biased Policing: Traffic	5	1%	7	2%
5	Biased Policing: Other	31	9%	12	3%
6	Attitude/Demeanor	57	16%	81	18%
7	Inquiry/Request/Referral	37	11%	54	12%
8	Discretion in Enforcement	38	11%	50	11%
9	Off-Duty Traffic Control	0	0%	0	0%
10	Demonstrations	2	<1%	0	0%
11	Special Events	0	0%	0	0%
12	Sporting Events - SAFECO	1	<1%	0	0%
13	Sporting Events - Seahawks	0	0%	1	0%
14	Sporting Events - Key Arena	0	0%	0	0%
15	Workplace Issues	3	<1%	3	1%
16	Private Conduct	2	<1%	10	2%
17	Traffic Violation by Officer	3	<1%	10	2%
18	Search and Seizure	7	2%	6	1%
99	Other	4	1%	22	5%

Note: Percentages add up to more than 100% because more than one category can apply to each PIR. Primary and secondary issues were included. (242 PIRs equaling 351 issues.)

In addition to the 242 PIRs reflected above, OPA-IS processed 287 additional Contact Logs in 2004.

Note: Category 18 added in 2004.

Note: Category 5 includes allegations of both prejudicial and preferential treatment based on bias.

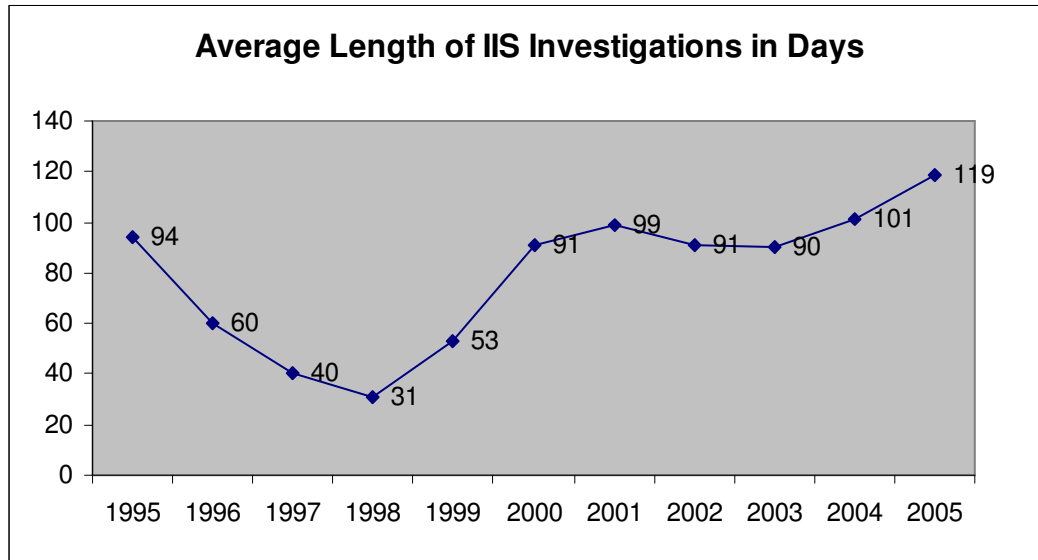
In addition to the 315 PIRs (449 issues), OPA also recorded 433 additional contact logs in 2005 alone.

PIR is the record of a complaint that, after an initial investigation and review, is determined not to allege a violation of the Department's Standards of Conduct. PIRs may include citizen inquiries or complaints about the enforcement of the law, Department policy, procedures, or tactics, or concerns about service quality, including promptness of response and demeanor. OPA-IS gathers and reviews relevant documentation, explains the results of their review to the complainant, and forwards the complainant's concerns to the affected bureau. OPA-IS will highlight issues in certain PIRs that would be appropriate for chain of command follow-up.

The PIR category clarified the criteria used in classification, acknowledged the scrutiny applied to all complaints, and more accurately captured citizen complaint activity.

The work done by OPA-IS in these preliminary investigations is exemplary. The intake sergeants deal directly with citizens with a wide array of questions and concerns. Often OPA-IS is able to provide direct services and advice to citizens who may have made several calls already in an effort to get through to someone who can help. The sergeants listen, explain, and often reassure citizens, something officers in the field are not always able to do. They put a human face on the bureaucracy of a large police department, and represent both the Department and the citizenry well.

# Length of Investigations



The increase in the length of investigations in 2004 and 2005 can be attributed to several factors. First, the increase is an inevitable result of an increased number of case and an increased number of allegations within those cases. Second, several complex 2005 cases monopolized investigative time and resources. Third, the investigative section increasingly encountered problems with no-shows and cancellations of interviews by employees. Finally, the Investigation Section experienced significant turnover in staff throughout 2004 and 2005.

Several steps have already been implemented in an effort to address the problem with the length of investigation and the delays in the review and closure process. In addition, a reformed staffing plan has been presented to Chief Kerlikowske for consideration.

In addition to the investigative time, additional time is spent in subsequent review, disposition, and closure of each case. Improvements are necessary in this category. The Director and Commander will work with other parts of the Department, such as Operations and Human Resources, and with SPOG to identify ways to streamline the review and closure process.

## SUMMARY

Since the creation of the Office of Professional Accountability, the office has accepted ***all*** complaints received and has objectively and fairly reviewed those complaints selected for investigation. In order to ensure complete transparency for both the internal and external audiences, we have regularly reported on the activities of the office. We remain committed to ensuring that the mandates of our responsibilities are fulfilled in a professional manner and welcome any suggestions that may allow us to continue to improve and satisfy those obligations.